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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,737	08/19/2003	Horst Schonebeck	60,130-1826;02MRA0412	4112

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EXAMINER

YAO, SAMCHUAN CUA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/643,737

**Applicant(s)**

SCHONEBECK, HORST

**Examiner**

Sam Chuan C. Yao

**Art Unit**

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 19 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09-07-04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

This claim is indefinite, because it is unclear what unit is used this claim. Is it milligram, gram, ounce, pound, kilogram, etc? Equally important, it is also unclear what operating conditions are used to obtain the recited air permeability. It is quite clear that an amount of air passing through a fleece is dependent on a number of factors such as the pressure of air supply and the time allotted for collecting air passing through a fleece.

The lack of a prior art rejection should not be construed as meaning that the claims would be patentable if corrected to overcome the 35 USC 112 rejection set forth above. No prior art rejection has been made since it would be improper to rely on speculative assumptions as to the meaning of this claim.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Volland et al (US 4,618,532).

While a preamble in claim 1 requires forming a vehicle liner, this limitation is given very little, if any, patentable weight, since the preamble fails to give life and meaning to the body of the claim.

Volland teaches a process of forming a upholstered seat, the process comprises applying a foamable material onto an underside of an air-permeable covering, the covering includes a polyamide textile, a foam film, and a paper which "acts as a foam-impermeable barrier during a foaming process", where an open-cell foam can be formed from the foamable material (title; abstract; col. 1 lines 22-25; col. 4 lines 57-66).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-9, 11-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Higgins (6,203,881) in view of EP 384420 A2.

With respect to claims 1-2, 4, 6 and 16-17, Higgins discloses a process of making a carpet. The process comprises providing a carpet facing fabric (i.e. taken to be a decorative textile fabric; 112); coating a reinforcing fibrous web with an adhesive; adhesively bonding the facing fabric and the reinforcing fibrous web

(158) together to form a preliminary composite (166); coating a polyurethane liquid foamable polyurethane onto an underside surface of the preliminary composite; and then heat-curing the foamable polyurethane coating (col. 5 line 26 to col. 7 line 5; figure 2). Higgins is silent on whether a reinforcing fibrous web is air-permeable. In any event, such would have been obvious in the art, because it is well known in the art of making a carpet to provide a pervious reinforcing web. Moreover, since: a) the limitation *"the barrier layer [fleece] prevents penetration of the liquid plastic through the barrier layer"* does not positively require completely preventing a liquid plastic from penetration through a barrier layer (i.e. fleece); and, b) a pervious reinforcing web especially a woven fabric is expected to substantially prevent a foamable liquid from penetrating through the fabric, the above limitation fails to distinguish over an air-pervious reinforcing fabric suggested by Higgins. In any event, it would have been obvious in the art to use a reinforcing fibrous web, such that the web is able to prevent a foamable polyurethane from flowing through, because EP '420 teaches the desirability of applying a sealing fibrous mat onto an underside of a floor pile fabric to seal the pile fabric from a foamable coating (5). **Alternatively**, it would have been obvious in the art to incorporate a sealing fibrous mat suggested by EP '420 in forming a carpet of Higgins, because EP '420 teaches the advantage of providing a sealing fabric to seal pile fabric components from a foamable material.

While Higgins is also silent on whether a foamed layer in a finished carpet taught by Higgins is air-permeable, such is taken to be air-permeable, because a

foamed material in a carpet by its very nature is expected to be air-permeable to a certain degree. In any event, it would have been obvious in the art to a carpet of Higgins such that a foam layer in the carpet is air-permeable, because it is conventional in the art to form a carpet having an air-permeable to apply a foamable material.

With respect to claim 3, EP '420 discloses the advantage of providing an acoustical active layer (1) comprising a foam layer (2a) to a pile facing fabric (i.e. carpet). It would have been obvious in the art to incorporate the acoustical active layer suggested by EP '420 in forming a carpet of Higgins.

With respect to claim 5, since it is old in the art to use a pulverulent hot-melting adhesive for laminating backing layers in a carpet, this claim would have been obvious in the art.

With respect to claims 7-8, while it is desired to use fiberglass or polyester fiber in forming a reinforcing web, it would have been obvious in the art to use sisal fibers for a reinforcing web, because sisal fibers are well known a reinforcing material in the art.

With respect to claim 9, see column 10 lines 47-48 of the Higgins patent, where a weight/area of a reinforcing web is 32 oz/yd<sup>2</sup> (i.e. 57.6 g/m<sup>2</sup>).

With respect to claim 11, see figures 3A-3B of the Higgins patent.

With respect to claims 12 and 14, it is conventional in the art to distribute reinforcing glass fibers into a foamable material in order to enhance the strength of a finished foam.

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With respect to claim 13, it is conventional in the art to directly apply a foamable material onto an underside surface of a carpet facing fabric.

With respect to claim 19, it is old in the art to embed a fastening device to a carpet during a foaming operation.

***Allowable Subject Matter***

7. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: in view that, a carpet of Higgins includes various polymeric/adhesive layers, a resultant carpet of Higgins is not reasonably expected to be air-permeable. Moreover, while it is old in the art to form an air-permeable auto head-liner, there is no suggestion in the art of forming a headliners using the process steps recited in claim 1.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Gilbert (US 4,156,041) is cited as a reference of interest showing a polyurethane foamable material onto an underside surface of carpet fabric pile.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Chuan C. Yao whose telephone number is (571) 272-1224. The examiner can normally be reached on Monday-Friday with second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sam Chuan C. Yao  
Primary Examiner  
Art Unit 1733

Scy  
09-29-05